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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
SERGEYI BAZAR,  
Defendant.

Case No.: 15-CR-499-BEN  
**ORDER**

Defendant Sergeyi Bazar filed a Motion to Dismiss Counts 3 and 4 of the Indictment and a Motion for a Bill of Particulars. (Docket No. 28.) The Government filed an Opposition. For the reasons stated below, the Motions are **DENIED**.

**I. Defendant's Motion to Dismiss Counts 3 & 4**

Defendant moves to dismiss Counts 3 and 4 of the Indictment for lack of specificity pursuant to Federal Rule of Criminal Procedure 12.

“It is generally sufficient that an indictment set forth the offense in the words of the statute itself as long as ‘those words themselves fully, directly, and expressly without any uncertainty or ambiguity set forth all the elements necessary to constitute the offence [sic] intended to be punished.’” *Hamling v. United States*, 418 U.S. 87, 117 (1974) (quoting *United States v. Carll*, 105 U.S. 611, 612 (1881)). When considering a motion

1 to dismiss an indictment, “the district court is bound by the four corners of the  
 2 [i]ndictment.” *United States v. Boren*, 278 F.3d 911, 914 (9th Cir. 2002).

3 Here, Counts 3 and 4 track the language of the Mann Act, 18 U.S.C. § 2422(a).  
 4 For example, Count 3 states: “In or about November 2014, within the Southern District of  
 5 California, defendant [] did knowingly persuade, induce, entice, and coerce an individual  
 6 [] to travel to interstate commerce, to wit: from Miami, Florida to San Diego, California,  
 7 to engage in prostitution and in any sexual activity for which any person could be  
 8 charged with a criminal offense, and attempted to do so; in violation of Title 18, United  
 9 States Code Section 2422(a). Count 4 is similar, but concerns a different individual.

10 Defendant primarily contends that he cannot prepare a defense because the  
 11 indictment fails to sufficiently inform him of the charges against him. Defendant relies  
 12 on *United States v. Peel*, No. 14-cr-106, 2014 WL 3057523 (C.D. Cal. July 7, 2014).

13 In *Peel*, the court dismissed an indictment charging the defendant with a violation  
 14 of section 2423(a) of the Mann Act. Section 2423(a) uses the same language at issue  
 15 here: “to engage in prostitution or any sexual activity for which any person can be  
 16 charged with a criminal offense . . . .” However, the *Peel* indictment did not make  
 17 reference to “prostitution,” rather it charged the defendant with coercing or otherwise  
 18 persuading the victim to engage in “any sexual activity that might be a criminal offense.”  
 19 The court acknowledged that such language encompasses a multitude of crimes. *Id.* at  
 20 \*3. By failing to allege, either by citation or sufficient factual allegations, which criminal  
 21 sexual activities the defendant participated in, the indictment was deficient. *Id.*

22 The case at hand is distinguishable from *Peel*. Here, the indictment charges  
 23 Defendant with coercing the victims to engage in prostitution and other sexual actions  
 24 proscribed by law. The use of “prostitution” here describes a narrower universe of  
 25 conduct for which Defendant is charged. Further, the indictment alleges which individual  
 26 the charged conduct concerns, and where the individual was persuaded to travel. The  
 27 indictment is therefore sufficient. See *United States v. Powell*, 1 F. Supp. 2d 1419, 1423  
 28 (N.D. Ala. 1998) (tracking the language of the Mann Act was sufficient); see also *United*

1      *States v. Shill*, 740 F.3d 1347, 1352-54 (9th Cir. 2014) (holding the language, “any sexual  
2      activity for which any person can be charged with a criminal offense,” is not vague or  
3      overbroad).

4      Accordingly, the Motion to Dismiss Counts 3 and 4 of the Indictment is **DENIED**.

5      **II. Defendant’s Motion for a Bill of Particulars**

6      Federal Rule of Criminal Procedure 7(f) allows a defendant to move for a bill of  
7      particulars. A bill of particulars functions to:

8      [I]nform the defendant of the nature of the charge against him with sufficient  
9      precision to enable him to prepare for trial, to avoid or minimize the danger  
10     of surprise at the time of trial, and to enable him to plead his acquittal or  
11     conviction in bar of another prosecution for the same offense when the  
indictment itself is too vague, and indefinite for such purposes.

12     *United States v. Giese*, 597 F.2d 1170, 1180 (9th Cir. 1979). Courts should consider  
13     whether the indictment and other government disclosures provide the defendant with  
14     adequate information to prepare a defense. See *United States v. Long*, 706 F.2d 1044,  
15     1054 (9th Cir. 1983). “Full discovery obviates the need for a bill of particulars.” *Giese*,  
16     597 F.2d at 1180.

17     Here, Counts 1 and 2 charge Defendant with violations of 18 U.S.C. § 1591(a)-(b).  
18     The Government has provided Defendant with nearly all available discovery. Defendant  
19     is aware of the Government’s theory of the case and should be able to adequately prepare  
20     for trial. Defendant’s Motion is therefore **DENIED**.

21      **IT IS SO ORDERED.**

22  
23      Dated: August 12, 2015

24  
25      Hon. Roger T. Benitez  
United States District Judge